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LexisNexis (R) Florida Annotated Statutes
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*** THE 2006 REGULAR SESSION ***

*** ANNOTATIONS CURRENT THROUGH MARCH 31, 2006 ***

TITLE 48. K-20 EDUCATION CODE (Chs. 1000-1013)
CHAPTER 1006. SUPPORT FOR LEARNING
PART I. PUBLIC K-12 EDUCATION SUPPORT FOR LEARNING AND STUDENT SERVICES
SUBPART C. STUDENT DISCIPLINE AND SCHOOL SAFETY

GO TO FLORIDA STATUTES ARCHIVE DIRECTORY

Fla. Stat. § 1006.09 (2006)

STATUS: CONSULT SLIP LAWS CITED BELOW FOR RECENT CHANGES TO THIS DOCUMENT LEXSEE
2006 FL. ALS 74 — See section 36.

§ 1006.09. Duties of school principal relating to student discipline and school safety

(1) (a) Subject to law and to the rules of the State Board of Education and the district school board, the principal in charge of the school or the principal's designee shall develop policies for delegating to any teacher or other member of the instructional staff or to any bus driver transporting students of the school responsibility for the control and direction of students. Each school principal shall fully support the authority of his or her teachers and school bus drivers to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus and, when appropriate and available, place such students in an alternative educational setting. The principal or the principal's designee must give full consideration to the recommendation for discipline made by a teacher, other member of the instructional staff, or a bus driver when making a decision regarding student referral for discipline.

(b) The principal or the principal's designee may suspend a student only in accordance with the rules of the district school board. The principal or the principal's designee shall make a good faith effort to immediately inform a student's parent by telephone of a student's suspension and the reasons for the suspension. Each suspension and the reasons for the suspension shall be reported in writing within 24 hours to the student's parent by United States mail. Each suspension and the reasons for the suspension shall also be reported in writing within 24 hours to the district school superintendent. A good faith effort shall be made by the principal or the principal's designee to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student shall be given an opportunity to present his or her side of the story. No student shall be suspended for unexcused tardiness, lateness, absence, or truancy. The principal or the principal's designee may suspend any student transported to or from school at public expense from the privilege of riding on a school bus for violation of district school board transportation policies, which shall include a policy regarding behavior at school bus stops, and the principal or the principal's designee shall give notice in writing to the student's parent and to the district school superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or the principal's designee may recommend to the district school superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his or her staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the **school**. A recommendation of expulsion or assignment to a second chance **school** may also be made for any student found to have intentionally made false accusations that jeopardize

the professional reputation, employment, or professional certification of a teacher or other member of the **school** staff, according to the district **school** board code of student conduct. Any recommendation of expulsion shall include a detailed **report** by the principal or the principal's designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or the principal's designee shall include an analysis of suspensions and expulsions in the annual **report of school** progress.

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any enrolled student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an **incident** which allegedly occurred on property other than public **school** property, if that **incident** is shown, in an administrative hearing with notice provided to the parents of the student by the principal of the **school** pursuant to rules adopted by the State Board of Education and to rules developed pursuant to *s. 1001.54*, to have an adverse impact on the educational program, discipline, or welfare in the **school** in which the student is enrolled. Any student who is suspended as the result of such proceedings may be suspended from all classes of instruction on public **school** grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the district **school** superintendent. The suspension shall not affect the delivery of educational services to the student, and the student shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act which would have been a felony if committed by an adult, the district **school** board may expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. Any student who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If the student divulges information leading to the arrest and conviction of the person who supplied the controlled substance to him or her, or if the student voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest. Any information divulged which leads to arrest and conviction is not admissible in evidence in a subsequent criminal trial against the student divulging the information.

(b) If the student commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) A student may be disciplined or expelled for unlawful possession or use of any substance controlled under chapter 893 upon the third violation of this provision.

(4) When a student has been the victim of a violent crime perpetrated by another student who attends the same **school**, **the school** principal shall make full and effective use of the provisions of subsection (2) and *s. 1006.13(5)*. A **school** principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay policy incentive under *s. 1012.22(1)(c)*. However, if any party responsible for notification fails to properly notify the **school**, **the school** principal shall be eligible for the incentive.

(5) Any recommendation for the suspension or expulsion of a student with a disability must be made in accordance with rules adopted by the State Board of Education.

(6) Each **school** principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to **report** data concerning **school** safety and discipline to the department. The **school** principal must develop a plan to verify the accuracy of reported **incidents**.

(7) The State Board of Education shall adopt by rule a standardized form to be used by each **school** principal to **report** data concerning **school** safety and discipline.

(8) The **school** principal shall require all **school** personnel to **report** to the principal or principal's designee any suspected unlawful use, possession, or sale by a student of any controlled substance, as defined in *s. 893.02*; any counterfeit controlled substance, as defined in *s. 831.31*; any alcoholic beverage, as defined in *s. 561.01(4)*; or model glue. **School** personnel are exempt from civil liability when reporting in good faith to the proper **school** authority such suspected unlawful use, possession, or sale by a student. Only a principal or principal's designee is authorized to contact a parent or legal guardian of a student regarding this situation. **Reports** made and verified under this subsection shall be forwarded to an appropriate agency. The principal or principal's designee shall timely notify the student's parent that a

verified **report** made under this subsection with respect to the student has been made and forwarded.

(9) A school principal or a school employee designated by the principal, if she or he has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area, may search the locker or storage area. The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects. This subsection does not prohibit the use of metal detectors or specially trained animals in the course of a search for illegally possessed substances or objects.

HISTORY: s. 279, ch. 2002-387; s. 39, ch. 2003-391.

NOTES:

AMENDMENTS

The 2003 amendment by s. 39, ch. 2003-391, effective July 1, 2003, added the second sentence in (1)(a) and substituted "must give full consideration to the recommendation" for "shall consider the recommendation."

LexisNexis (R) Notes:

CASE NOTES

1. Trial court properly denied defendant's motion to suppress stolen property where the state showed that former Fla. Stat. ch. 232.256 (now *Fla. Stat. ch. 1006.09*) applied to make a warrant unnecessary to search a student's locker. *Woolley v. State*, 459 So. 2d 1101, 1984 Fla. App. LEXIS 15779, 9 Fla. L. Weekly 2337 (Fla. Dist. Ct. App. 2d Dist. 1984), review denied by 466 So. 2d 218 (Fla. 1985).

2. Where a juvenile was removed from a regular public school program and placed in a separate facility before the juvenile's parents were notified of a disciplinary problem, the principal and the school board failed to comply with former Fla. Stat. ch. 232.26(1)(b) (now *Fla. Stat. ch. 1006.09*); the transfer of the juvenile constituted a suspension within the meaning of former Fla. Stat. ch. 228.041(25) (now *Fla. Stat. ch. 1003.01(5)(a)*). *W.A.N. v. School Bd.*, 504 So. 2d 529, 1987 Fla. App. LEXIS 7412, 12 Fla. L. Weekly 886 (Fla. Dist. Ct. App. 2d Dist. 1987).

HIERARCHY NOTES:

3. Where a juvenile was removed from a regular public school program and placed in a separate facility before the juvenile's parents were notified of a disciplinary problem, the principal and the school board failed to comply with former Fla. Stat. ch. 232.26(1)(b) (now *Fla. Stat. ch. 1006.09*); the transfer of the juvenile constituted a suspension within the meaning of former Fla. Stat. ch. 228.041(25) (now *Fla. Stat. ch. 1003.01(5)(a)*). *W.A.N. v. School Bd.*, 504 So. 2d 529, 1987 Fla. App. LEXIS 7412, 12 Fla. L. Weekly 886 (Fla. Dist. Ct. App. 2d Dist. 1987).